

CERTAINTEED CORPORATION : CIVIL ACTION
:
v. :
:
FREEMONT FINANCIAL CORPORATION : No. 99-5652

AND NOW, this 8th day of February, 2000, upon motion of defendant
Freemont Financial Corporation this action is transferred to the United States
District Court for the Northern District of Georgia. 28 U.S.C. § 1404(a).¹

1. "For the convenience of the parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district court or division where it might have been brought." 28 U.S.C. § 1404(a). "[C]ourts have considered many variants of the private and public interests protected by the language of § 1404(a)." Jumara v. State Farm Insurance Co., 55 F.3d 873, 879 (3d Cir. 1995).

As a forum resident, plaintiff's choice of forum is entitled to great consideration and "should not be lightly disturbed." Jumara v. State Farm Insurance Company, 55 F.3d 873, 879 (3d Cir. 1995). However, the following factors are strongly counter-balancing in this case:

1. The dispute arises out of transactions that occurred in Georgia prior to the assignment. Mizell Bros., the banks involved in the transactions, and the lockbox are all located in Georgia.

2. Under a provision in the assignment from Freemont to CertainTeed, Georgia law applies to the dispute.

3. The Northern District of Georgia, which is inconvenient for both CertainTeed and Freemont, is the place of residence of likely non-party witnesses – employees of both Mizell Bros. and the participating banks.²

4. Litigation involving Freemont, CertainTeed, and Mizell Bros. is currently proceeding in the Northern District of Georgia, and all three parties to the dispute are before that court.

For these reasons, the convenience of the witnesses and parties, as well as the interests of justice, are best served by transfer of this action to the Northern District of Georgia.

Edmund V. Ludwig, J.

2. While not convenient to Freemont's principal place of business, its employees who negotiated the lockbox agreement with Mizell Bros. are Georgia residents.